1949

File No. O. Forests/49

Legal Department—

A BRANCH

Subject:— Opinions under the Indian Forest Act 1927

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Although the loss suffered by Government by the breach of the conditions of sale by Mr. Pingle can be recovered as an arrear of land revenue under sec. 82 of the Indian Forests Act, it appears that the Chief Conservator of Forests had no authority to stop Mr. Pingle from working the Nandoshi coupe No. 16 in respect of which he had paid all dues. Clearly the order passed by the Conservator of Forests was unauthorised and Mr. Pingle must have also suffered some damages as a result of that unauthorised order; but the main point for consideration is whether Government would be liable to pay these damages. As stated above, the order of the Conservator of Forests was undoubtedly unauthorised and illegal and Mr. Pingl could have disobeyed that order. It does not appear that Government has confirmed or approved that order of the Chief Conservator of Forests. Consequently, Government would not, in law, be liable for any damage arising out of such an unauthorised or illegal order. The Conservator of Forests may be directed to cancel his order and Mr. Pingle informed that Government would not be liable to pay him any damage or compensation.

Sd/- P.M.Lad.
5.10
Remembrancer of Legal Affai...

U.R. to A. & F.D., No. 11170 , dated the 5th October 1949.

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Indian Forest Act, 1927, section 68. Government Notification No. 4335/39 (d), dated 1.10.42.

Under section 68 of the Indian Forests Act only officers who have been notified in the Official Gazette as Forest Officers can compound offences. By Government Notification No. 4333/39(d), dated 1st October 1942, Conservators and Deputy and Assistant Conservator only are empowered to compound offences under section 68. It is clear from this notification that only Conservators and Deputy and Assistant Conservators can compound offences under section 68 and none else. The Divisional and Sub-divisional Forests Officers have not been so notified as Forest Officers empowered to compound offences under section 68. Prima facie, therefore, these under section 68. However, it appears that by G.R. No 5534/28, dated 2nd February 1931 the proposal made by the Chief Conservator to designate Officers of Class I and Class II of the Bombay Forest Service as Deputy Conservators and Assistant Conservators of Forests was sanctioned by Government and according to the cadre of the Bombay Forest Service, Divisional Forest Officers sub-Divisional Forest Officers are Officers of Class and Class II respectively of the Bombay Forest Service It is therefore, clear that the Divisional Forest Officers and Sub-divisional Forest Officers fill the capacity of Deputy Conservators and Assistant Conservators of Forests respectively and it is presumed that there are no separate posts of Deputy Conservators and Assistant Conservators independent of those of Divisional Forest Officers and Sub-divisional Forest Officers. Consequently, there appears no legal objection to holding that the Divisional and Sub-divisional Forest Officers are deemed to be Deputy

and Assistant Conservators and can compound offences under section 68 of the Indian Forest Act.

Sd/- P.M.Lad.
18-10
..emembrancer of Legal Affairs.

U.R. to A. & F.D. No. 11659 , dated the 19th October 1949.

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